

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MILES BOOTH,

Plaintiff,

vs.

Civil Action No. 13-CV-12997  
HON. BERNARD A. FRIEDMAN  
MAG. JUDGE PATRICIA T. MORRIS

RAMESH KILARU,

Defendant.

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**OPINION AND ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

This matter is before the Court on Magistrate Judge Patricia T. Morris's Report and Recommendation ("R&R") dated June 30, 2014 [docket entry 32], in which she recommends that the Court grant defendant's motion for summary judgment [docket entry 23]. Plaintiff filed an objection to the R&R [docket entry 34] and defendant filed a response [docket entry 35]. Since the Court has reviewed this matter *de novo* pursuant to Fed. R. Civ. P. 72(b)(3), and finds that the magistrate judge's recitation of the underlying facts is accurate, the Court will adopt her summary of the factual record as it appears on pages 1 through 2 of the R&R.

In his objections, plaintiff reiterates that defendant violated his Eighth Amendment right to be free from cruel and unusual punishment by refusing to treat him with Allopurinol, a medication used to treat symptoms related to gout. The Court disagrees.

Under the Eighth Amendment, "[p]rison authorities may be sued for deliberate indifference to the serious medical needs of prisoners . . . because such indifference constitutes

the unnecessary and wanton infliction of pain.” Smith v. Sator, 102 F. App’x 907, 909 (6th Cir. 2004) (citing Estelle v. Gamble, 429 U.S. 97, 104 (1976)). However, “differences of opinion between a plaintiff and his doctor regarding his diagnosis and treatment do not state an Eighth Amendment claim.” Id. (citing Estelle, 429 U.S. at 107). In this case, plaintiff’s podiatrist prescribed Allopurinol on an as needed basis to lower plaintiff’s uric acid levels, which could otherwise cause gout. The record reflects that defendant consistently monitored plaintiff’s uric acid levels over the course of several years, and during that time, plaintiff exhibited heightened uric acid levels on only two occasions, neither of which coincided with symptoms of swelling and pain in his feet. Thus, defendant’s decision not to treat plaintiff with Allopurinol does not rise to the level of deliberate indifference sufficient to support a claim under the Eighth Amendment. Accordingly,

IT IS ORDERED that Magistrate Judge Patricia T. Morris’s R&R dated June 30, 2014, is hereby accepted and adopted.

IT IS FURTHER ORDERED that defendant’s motion for summary judgment is granted.

IT IS FURTHER ORDERED that plaintiff’s motion for an extension of time to file an objection is denied as moot.

Dated: August 8, 2014  
Detroit, Michigan

s/ Bernard A. Friedman \_\_\_\_\_  
BERNARD A. FRIEDMAN  
SENIOR UNITED STATES DISTRICT JUDGE